

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	Chapter 11
RIGHT OF WAY MAINTENANCE	§	
EQUIPMENT COMPANY,	§	Case No. 09-35037
	§	
DEBTOR.	§	
	§	

NOTICE OF DISTRIBUTION OF RETAINER

TO THE HONORABLE KAREN K. BROWN, UNITED STATES BANKRUPTCY JUDGE:

PENDERGRAFT & SIMON ("P&S"), counsel for **RIGHT OF WAY MAINTENANCE EQUIPMENT COMPANY** ("Debtor") hereby files this Notice of Distribution of Retainer.

1. The Debtor's chapter 11 case was filed on July 13, 2009. Prior to filing, the Debtor's case, ROWMEC signed a Power of Attorney and Fee Contract in which the Debtor agreed to place an immediate retainer with P&S in the amount of \$10,000, and agreed to increase said retainer to \$20,000 as soon as ROWMEC was able to do so. On July 23, 2009, ROWMEC filed an application to employ P&S, attached to which was an unsworn declaration under 11 U.S.C. §§ 329 and 504 and under Bankruptcy Rules 2014(a) and 2016(b) (the "Declaration") where these terms of engagement were disclosed. On July 28, 2009, said application was approved by the Court. Document No. 10.

2. A bill was issued for the work that was performed prepetition in the amount of \$7,262.50 in fees and \$1,039.00 for the filing fee, and said amount was paid from the \$10,000 retainer. The retainer balance, \$2,737.50, remains in P&S' IOLTA Trust Account. In addition, the ROWMEC has placed an additional \$7,500 in trust to satisfy its commitment to place a total

retainer with P&S in the amount of \$20,000. The retainer now in trust is \$10,237.50.

3. On July 31, P&S issued two invoices as follows:
 - a. Invoice for \$25,583 for fees relating to work performed in Adversary 09-03303, including the following: investigation of court files and documents provided by ROWMEC; numerous meetings and telephone calls with ROWMEC principals and former counsel, Don Stocking; extensive research of numerous legal issues; numerous drafts and re-drafts of the original complaint. Leonard Simon spent 41.50 hours on these matters, Robert Pendergraft spent 56.35 hours on these matters, both at an hourly rate of \$250.00. Cecilia D. Sanchez, a paralegal, spent 12.45 hours at an hourly rate of \$90.00.
 - b. Invoice for \$4,204.00 for fees and expenses relating to general chapter 11 work. The work included the following: Preparation of suggestion of bankruptcy and proceeding to Judge Hancock's court to present same at the hearing; meetings with client representatives to assist in preparation of materials for Initial Debtor's Conference; preparation of engagement application, declaration and proposed order; written and email communications with attorneys for several creditors and adversaries; several exchanges with the US Trustee; and preparation of 2004 Exam of Cambridge and negotiate with attorney for Cambridge to voluntarily turn over documents. Leonard Simon spent 8.50 hours on these matters at an hourly rate of \$350.00. Cecilia D. Sanchez, a paralegal, spent 4.6 hours at an hourly rate of \$100.00.

4. Under Local Rule 2015, a retainer may be applied to fees and expenses only if no objection has been filed and 20 days have elapsed from the filing and service of a notice for the distribution of a retainer.

Respectfully submitted this 16th day of August 2009.

/s/ Leonard H. Simon
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing has been served by electronic transmission to all registered ECF users appearing in the case on this 16th day of August 2009. Additionally, this notice was served on the parties listed on the attached matrix by regular mail on the 17th day of August 2009.

/s/ Leonard H. Simon
Leonard H. Simon

SERVICE LIST

AT&T
P O Box 65057
Dallas, TX 75265

Alamo Iron Works
P O Box 231
San Antonio, TX 78291-0231

Alltex Interior Supply, Inc
P O Box 5533
Bryan, TX 77805-5533

American Coatings
P O Box 1426
Tomball, TX 77377-1426

Ample Computer Service
1528 Avenue O
Huntsville, TX 77340-4452

Bandas Law Firm
500 N. Shoreline #1020
Corpus Christi, TX 78471-1010

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C/o Michael S. Hays
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Houston, Texas 77027-9109

Bickley, Prescott & Company
901 Normal Park #2060
Huntville, TX 77320-3770

Bio Fuel Consultants of North America
9250 Corkscrew Road, Suite 8
Estero, FL 33928-3216

CME-Conveying & Mining Equip.
8300 Hempstead * Suite A
Houston, Texas 77008-6175

CMG/Cambridge Management Group, LLC
266 Harristown Road * Suite #300
Glen Rock, NJ 07452-3321

CMG/Cambridge Management Group, LLC
C/O Alexander Chae
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Houston, TX 77002-5011

CNH Capital
Dept. CH 10460
Palatine, ILL 60055-0460

CNH Capital
P O Box 3038
Evansville, IN 47730-3038

Capital One
P O Box 60599
City of Industry, CA 91716-0599

Christopher R. Johnston
Firth, Johnston & Martinez
415 N. Mesa, Third Floor
El Paso, Texas 79901

Conroe Mill Supply
P O Box 447
Conroe, TX 77305-0447

Conroe Welding Supply
415 South Frazier
Conroe, TX 77301-5098

Delta Dental/Allied Administrators
P O Box 45793
San Fransisco, CA 94145-0793

Don Stocking
2040 N. Loop 336 West
Conroe, TX 77304-3500

Eager Beaver (Dietrich)
21838 Magnolia Hills Drive
Magnolia, Texas 77354-7633

Exxon
P.O. Box 5727
Carol Stream, IL 601975727

Flexaire Manufacturing
10430 - 180 Street
Edmonton, AB, Canda T55 1C3

Home Depot Credit Services
P. O. Box 6029
The Lakes, NV 88901-6029

Independent Hydraulic
P O Box 1127
Conroe, TX 77305-1127

Inlands Technology
401 East 27th Street
Tcoma, WA 98421-1203

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J&B Auto
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Humble, TX 77338-4503

Lowe & Associates
177 Meeting Street #400
Charleston, SC 29401-3189

M-Fab & Machine
17781 Hwy 105
Conroe, TX 77306-5913

Paychex, Inc.
11777 Katy Freeway #200
Houston, Texas 77079-1772

Peterson Pacific Corporation
29408 Airport Road
Eugene, Oregon 97402-9541

Pitney Bowes Global Finance Serv.
P. O. Box 856460
Louisville, KY 40285-6460

Premium Assignment Corp./
Catlin Specialty Ins. Group
P O Box 3066
Tallahassee, FL 32315-3066

Principal Insurance
P O Box 14513
Des Moines, IA 50306-3513

Randy Welch
14242 Carneswood
Tomball, TX 77375-4009

Risley Equipment
10820-89 Avenue
Grand Prairie, Alberta Canada T8* 6R7

Rolling Thunder - Kat Meyers
11402 E. J. Hawk
Houston, Texas 77044-5867

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P. O. Box 689010
Des Moines, IA 50368-9010

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1414 S. Frazier #103
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Soft Trac Supply
12 Phillips Drive SE
Cartersville, GA 30121-2476

Strouhal Tire
P O Box 671579
Dallas, TX 75267-1579

SunSource Distribution
P O Box 200794
Dallas, TX 75320-0794

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Philadelphia, PA

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